



INTERIOR BOARD OF INDIAN APPEALS

Estate of James Bill

22 IBIA 307 (09/22/1992)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF JAMES BILL

: Order Vacating Decision and
: Remanding Case
:
: Docket No. IBIA 92-127
:
: September 22, 1992

This is an appeal from an order upon order to show cause issued on January 10, 1992, by Administrative law Judge Patricia McDonald. Judge McDonald's order reopened the estate of James Bill (decedent) in order to add Marie Halona and Raymond Bill as children and heirs of decedent. Appellant here is Thomas Bill, a son of decedent and one of his heirs under the original order determining heirs in decedent's estate.

The original order was issued on May 28, 1974, by Administrative Law Judge Richard B. Denu. In that order, decedent was found to have been survived by a wife and eight children, who were determined to be his heirs. By letter of December 10, 1990, the Superintendent, Eastern Navajo Agency, Bureau of Indian Affairs, requested that Judge McDonald reopen the estate in order to add Marie Halona and Raymond Bill as decedent's children and heirs. On November 27, 1991, Judge McDonald issued an order to show cause why the two should not be added. Her order noted that it appeared that a manifest justice had occurred and, further, that the delay in requesting relief could be excused. The order stated that, unless good cause were shown, the relief requested would be granted without a hearing.

No one responded to the order to show cause. Therefore, on January 10, 1992, Judge McDonald issued an order adding Marie Halona and Raymond Bill as children and heirs of decedent.

Appellant's notice of appeal from Judge McDonald's order was received by the Board on March 5, 1992. Only appellant filed a brief. He challenges Judge McDonald's findings on various grounds. He also contends that he and three of his brothers did not receive copies of the Judge's order to show cause.

The addresses for three of the four brothers, as shown on the notice of appeal to the Board, are different than the addresses to which Judge McDonald's order to show cause was sent. It is possible, therefore, that these individuals did not receive copies of the order to show cause.

Under the circumstances, the Board finds that this matter should be remanded to Judge McDonald for the purpose of allowing appellant, and other heirs who did not receive the order to show cause, an opportunity to respond to it. Whether or not a hearing should be convened for this purpose is within the discretion of Judge McDonald to determine.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, Judge McDonald's January 10, 1992, order is vacated and this matter is remanded to her for further proceedings.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge